

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BRYAN EDWARD O'NEAL and  
KATHLEEN ROBINSON,

Plaintiffs

v.

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, et al.,

Defendants

Case No.: 2:17-cv-02765-APG-EJY

**Order Dismissing Plaintiff Bryan O'Neal  
and Accepting Report and  
Recommendation to Dismiss Plaintiff  
Kathleen Robinson's Claims**

On November 17, 2020, the defendants filed notices suggesting the death of plaintiff Bryan O'Neal. ECF Nos. 96, 97. Under Federal Rule of Civil Procedure 25(a)(1), when "a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." I therefore set a deadline of February 16, 2021 for a motion for substitution to be made or I would dismiss O'Neal's claims in this case. No motion to substitute has been filed. I therefore dismiss O'Neal's claims with prejudice.

On November 3, 2020, Magistrate Judge Youchah recommended that I dismiss plaintiff Kathleen Robinson's claims with prejudice because she did not demonstrate an intent to participate in discovery in good faith and failed to respond to court orders. ECF No. 93. Robinson did not file an objection. Thus, I am not obligated to conduct a de novo review of the report and recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to "make a de novo determination of those portions of the report or specified proposed findings to which objection is

1 made”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (“the  
2 district judge must review the magistrate judge’s findings and recommendations de novo *if*  
3 *objection is made*, but not otherwise” (emphasis in original)).

4 I THEREFORE ORDER that plaintiff Bryan Edward O’Neal’s claims in this case are  
5 DISMISSED with prejudice.

6 I FURTHER ORDER that Magistrate Judge Youchah’s report and recommendation  
7 **(ECF No. 93) is accepted**, and plaintiff Kathleen Robinson’s claims in this case are  
8 DISMISSED with prejudice.

9 I FURTHER ORDER that defendants Clark County and Naphcare, Inc.’s motion for  
10 summary judgment **(ECF No. 69) is DENIED as moot**.

11 I FURTHER ORDER the clerk of court to enter judgment in favor of the defendants and  
12 against the plaintiffs and to close this case.

13 DATED this 19th day of February, 2021.

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15 ANDREW P. GORDON  
16 UNITED STATES DISTRICT JUDGE  
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